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Paper No. 4

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OFFICE OF PETITIONS

In re Application of	:	
Hall et al.	:	
Application No. 10/050,941	:	ON PETITION
Filed: January 22, 2002	:	
Attorney Docket No. 15186-24USJA/AD/MB	:	

This is a decision on the petition filed October 23, 2002, to revive the instant non-provisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is GRANTED.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country on July 16, 2002. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;**
- (2) the petition fee as set forth in 37 CFR 1.17(m); and**
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.**

The instant petition has been found in compliance with 37 CFR 1.137(f). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "entire delay in filing the required reply [Notice to Rescind Previous Non-publication Request Under 35 U.S.C. 122(b)(2)(B)(ii)] until the filing of a grantable petition was unintentional."

Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. §122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.


The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(i) has been rescinded. A Corrected Filing Receipt which sets forth the projected publication date of May 1, 2003 accompanies this decision on petition.

The application file is being forwarded to Technology Center AU 2872 for examination in due course.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



Latrice Bond
Paralegal Specialist
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy



Frances Hicks
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Office of Petitions
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for Patent Examination Policy

cc: Corrected Filing Receipt